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STATE OF CALIFORNIA

Fish and Game Commission

JUL - 9 2012

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July 3, 2012

TO ALL AFFECTED AND INTERESTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to sections 163 and 164, Title 14, California Code of Regulations, relating to the commercial herring fishery, which will be published in the California Regulatory Notice Register on July 6, 2012.

Please note the date of the public hearing related to this matter and associated deadlines for receipt of written comments.

Mr. John Mello, Marine Region, Department of Fish and Game, phone (707) 441-5755, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sheri Tiemann

Sheri Tiemann
Staff Services Analyst

Attachment

DISTRIBUTED

7-11-12

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 5510, 8389, 8550, 8552.1, 8553 and 8555, of the Fish and Game Code and to implement, interpret or make specific sections 713, 1050, 7850, 7850.5, 7852.2, 7881, 8043, 8053, 8389, 8550-8557, and 8559 of said Code, proposes to amend sections 163 and 164, Title 14, California Code of Regulations, relating to the commercial herring fishery.

Informative Digest/Policy Statement Overview

Under existing law, herring may be taken for commercial purposes only under a revocable permit, subject to such regulations as the Commission shall prescribe. Current regulations specify: permittee qualifications; permit application procedures and requirements; permit limitations; permit areas; vessel identification requirements; fishing quotas; seasons; gear restrictions; and landing and monitoring requirements.

The proposed regulations would establish the fishing quota, season dates and times for fishing operations for the 2012-2013 season in San Francisco Bay based on the most recent biomass assessments of spawning populations of herring as well as season dates and times for fishing operations for the 2012-2013 season in Tomales Bay. There are no quota changes proposed for Crescent City Harbor, Humboldt or Tomales bays for the 2012-2013 herring season.

The following is a summary of the proposed changes in Sections 163, and 164, Title 14, CCR:

- Set the San Francisco Bay quota between zero (0) and 10 percent (0 and 6,099 tons) of the 2011-2012 spawning biomass. The Department is recommending that the San Francisco Bay quota be set at 2,854 tons, which is approximately five percent of the 2011-2012 spawning biomass. If the Commission were to adopt this option, a 2,854 ton quota would result in a 5.0 ton individual quota for a "CH" gill net permittee and a 3.1 ton individual quota for a non-"CH" gill net permittee participating in the HEOK fishery.
- Set the dates of the roe herring fisheries in San Francisco Bay for Odd and Even platoons in San Francisco Bay from 8:00 a.m. on Wednesday, January 2, 2013, until noon on Friday, March 15, 2013.
- Set the dates of the roe herring fishery in Tomales Bay from noon on Wednesday, December 26, 2012, until noon on Friday, February 22, 2013.

The proposed regulatory action will benefit fishermen, processors, and the State's economy in the form of a healthy sustainable fishery, and future harvestable herring populations.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, on all actions relevant to this action at a hearing to be held in the State of California Resources Building, First Floor Auditorium, 1416 Ninth Street, Sacramento, California, on Wednesday, October 3, 2012, at 10:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before September 26, 2012, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 1, 2012. All comments must be received no later than October 3, 2012, at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **Mr. John Mello, Marine Region, Department of Fish and Game, (707) 441-5755 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Department is providing the Commission a quota option range between zero to 10 percent of the 2011-2012 spawning biomass estimate of 60,985 tons. The potential changes to total State economic output, if the Commission were to choose a 10 percent, five percent, or zero percent option, are \$2,062,000, \$564,000, and \$(753,000), respectively, relative to last season. Both the 10 and five percent options result in positive incremental contributions

to total economic output for the State, whereas the zero percent option would result in an adverse economic impact to the State and loss of as much as \$753,000 (2011 dollars) in total economic output. This is based on an economic output multiplier of 1.99 used in calculating total direct, indirect, and induced effects arising from the California herring fishery.

Depending on which harvest option the Commission chooses for 2012-2013, the harvestable quota will be between zero and 6,099 tons. No adverse economic impacts to businesses in California would occur under the Department's recommended five percent quota of 2,854 tons. Moreover, given the overriding market conditions for herring roe (declining demand overseas and lower prices), none of the quota options are expected to affect the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

Depending on which harvest option the Commission chooses for 2012-2013, the harvestable quota will be between zero and 6,099 tons. Both the 10 percent and five percent harvest options, result in positive incremental contributions to employment for the State of about 13 and four jobs, respectively, whereas a zero percent harvest could result in as much as 196 potential job losses. This is based on an employment multiplier of 12.7 jobs per each million dollar change in direct economic output from fishing activities in the California herring fishery, and a fleet of about 190 permittees.

The Commission anticipates benefits to the health and welfare of California residents. Providing opportunities for a herring fishery encourages consumption of a nutritious food.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's herring resources.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. There are no new fees or reporting requirements stipulated under the proposed regulations.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Dated: June 26, 2012